101st Congress, 1st Session - - - - - - - - - - House Document 101-116

VETO OF H.R. 1231

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

HIS VETO OF H.R. 1231, A BILL TO DIRECT THE PRESIDENT TO ESTABLISH AN EMERGENCY BOARD TO INVESTIGATE AND REPORT RESPECTING THE DISPUTE BETWEEN EASTERN AIRLINES AND ITS COLLECTIVE BARGAINING UNITS

NOVEMBER 21, 1989.—Message and accompanying bill referred to the Committee on Public Works and Transportation and ordered to be printed

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To the House of Representatives:

I am returning herewith without my approval H.R. 1231, a bill establishing a congressional advisory commission to investigate and make recommendations on pending labor disputes at Eastern Airlines.

The future of Eastern Airlines is currently the subject of reorganization under Chapter 11 of the Bankruptcy Code. The bankruptcy court is charged with protecting the overall interests of the con cerned parties in an evenhanded fashion. This state of affairs should not be disturbed by new legislation. I am particularly concerned that the investigation and recommendations of the commission proposed by H.R. 1231 would create the expectation of further intervention by the Congress that would significantly disrupt chances for an orderly reorganization by the bankruptcy court. This would hinder saving Eastern Airlines and the jobs of its employees.

The commission's mandate under this legislation to investigate three pending labor disputes, as well as certain broader aviation industry issues, is also unrealistic. The National Mediation Board spent over 500 days of sustained effort in an unsuccessful attempt to resolve the single dispute at Eastern that has reached impasse. H.R. 1231 would charge the commission with recommending settlements for three outstanding disputes at Eastern in a fraction of the time—45 days. Furthermore, involvement in the two ongoing labor disputes at Eastern that have not reached impasse violates our policy against governmental interference in the collective bargaining process. I see no justification for approving legislation that would mandate Government intervention in the cases of pilots and flight attendants.

For these reasons, I am compelled to disapprove H.R. 1231.

I also note that certain provisions of section 5 of the bill could be read to provide that executive branch resources must be deployed at the discretion of a congressional advisory commission. Such a reading of the bill would raise constitutional concerns.

GEORGE BUSH.

THE WHITE HOUSE, *November 21, 1989.*

H. R. 1231

One Hundred First Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the third day of January, one thousand nine hundred and eighty-nine

An Act

To establish a commission to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT.

There is established a commission (hereinafter in this Act referred to as "the Commission") to investigate the labor dispute involving Eastern Airlines and the International Association of Machinists and Aerospace Workers, the Airline Pilots Association, and the Transport Workers Union.

SEC. 2. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall consist of four members, of which not later than 10 days after the date of enactment of this Act—

(1) one member of the Commission shall be appointed by the President Pro Tempore of the Senate;

(2) one member of the Commission shall be appointed by the Speaker of the House of Representatives;

(3) one member of the Commission shall be appointed by the Minority Leader of the Senate; and

(4) one member of the Commission shall be appointed by the Minority Leader of the House of Representatives.

(b) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(d) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the Commission.

SEC. 3. DUTIES.

The Commission shall—

(1) investigate and make findings of fact and recommendations regarding the prompt and equitable settlement of the dispute referred to in section 1;

(2) consider issues arising out of the dispute; and

(3) make policy recommendations to Congress and the Secretary of Transportation concerning—

(A) the powers of the Secretary to intervene on behalf of the public interest to maintain competitiveness in the aviation industry in light of mergers, acquisitions, and bankruptcies of air carriers; and

(B) the adequacy of protection of employee collective bargaining rights in bankruptcy proceedings involving air carriers.

SEC. 4. REPORT.

(a) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Commission shall submit to Congress and the Secretary of Transportation a written report containing its findings and recommendations.

(b) AVAILABILITY TO PUBLIC.—The Secretary of Transportation shall make the report available to the public.

SEC. 5. ADMINISTRATION.

(a) INFORMATION.—The heads of executive agencies, the General Accounting Office, and the Congressional Budget Office, to the extent permitted by law, shall provide the Commission with such information as the Commission may require in carrying out the duties and functions of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without any additional compensation for work performed on the Commission.

(2) TRAVEL EXPENSES.—Such members who are private citizens of the United States may be allowed travel expenses, including a per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under sections 5701 through 5707 of title 5, United States Code.

(c) STAFF.—Subject to the approval of the Secretary of Transportation and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Chairperson of the Commission may hire and fix the compensation of such staff personnel as the Commission determines are necessary to carry out duties and functions of the Commission.

(d) PERSONNEL AND SUPPORT SERVICES.—

(1) DEPARTMENT OF TRANSPORTATION.—On request of the Commission, the Secretary of Transportation shall furnish the Commission with such personnel and support services as are necessary to assist the Commission in carrying out the duties and functions of the Commission.

(2) OTHER AGENCIES.—On the request of the Commission, the heads of other executive agencies and the General Accounting Office may furnish the Commission with such personnel and support services as the head of the agency or Office and the Chairperson of the Commission agree are necessary to assist the Commission in carrying out the duties and functions of the Commission.

(3) REIMBURSEMENT.—The Commission shall not be required to pay or reimburse an agency or the Office for personnel and support services provided under this section.

(e) RECORDS.—

(1) IN GENERAL.—In accordance with section 12 of the Federal Advisory Committee Act (5 U.S.C. App. 2), the Secretary of Transportation shall maintain records of—

(A) the disposition of any funds that may be at the disposal of the Commission; and

(B) the nature and extent of activities of the Commission.

(2) GAO ACCESS.—The Comptroller General of the United States shall have access to such records for the purpose of audit and examination.

(f) EXEMPTION FROM CERTAIN PROVISIONS.—The Commission shall be exempt from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act and sections 4301 through 4308 of title 5 of the United States Code.

SEC. 6. FUNDING.

This Act shall be carried out using funds otherwise available to the Secretary of Transportation for the expenses of advisory committees.

SEC. 7. TERMINATION.

This Act and the Commission shall terminate on the submission of the report required under section 4.

THOMAS S. FOLEY,
Speaker of the House of Representatives.
ROBERT C. BYRD,
President of the Senate pro tempore.

I certify that this Act originated in the House of Representatives.

DONNALD K. ANDERSON,
Clerk.

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